

PT 95-23

Tax Type: PROPERTY TAX

Issue: Charitable Ownership/Use

STATE OF ILLINOIS  
DEPARTMENT OF REVENUE  
ADMINISTRATIVE HEARINGS DIVISION  
SPRINGFIELD, ILLINOIS

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CHICAGO ARCHITECTURE      )   Docket No.(s)  91-16-908
FOUNDATION                )
                           )   PI No.(s)  17-22-309-001
                           )   and    17-22-309-002
                           )   (Cook County)
                           )
      Applicant           )
                           )
      v.                  )
                           )
THE DEPARTMENT OF REVENUE )   George H. Nafziger
OF THE STATE OF ILLINOIS )   Administrative Law Judge
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RECOMMENDATION FOR DISPOSITION

APPEARANCES     Mr. Jeffrey Jahns, attorney for Applicant, appeared on behalf of Applicant.

SYNOPSIS     A hearing was held in this matter on May 24, 1994, to determine whether or not the parcels here in issue and the buildings thereon, qualified for exemption from real estate tax for the 1991 assessment year.

Is Applicant a charitable organization? Did Applicant own the parcels here in issue and the buildings thereon, during all or part of the 1991 assessment year? Did Applicant use the parcels here in issue and the buildings thereon, for charitable purposes, or did Applicant lease or otherwise use said parcels for profit during all or part of the 1991 assessment year? Following the submission of all of the evidence and a review of the record, it is determined that Applicant is not a charitable organization. It is also determined that Applicant owned the parcels here in issue during the portion of the 1991 assessment year, from November 13, 1991, through December 31, 1991. In addition, it is determined that Applicant leased the parcels here in issue and the buildings thereon, to

the United States Soccer Federation (hereinafter referred to as "Soccer Federation") on November 19, 1991, with a view to profit. Finally, it is determined that the Soccer Federation does not qualify for exemption.

FINDINGS OF FACT The Department's position in this matter, namely that the Applicant has failed to establish that the parcels here in issue and the buildings thereon, qualified for exemption during the 1991 assessment year, was established by the admission in evidence of Department's Exhibits 1 through 6B.

Mr. Frank Longo, assistant to the Secretary General of the Soccer Federation, was present at the hearing, and testified on behalf of the Soccer Federation.

On May 15, 1992, the Cook County Board of Appeals forwarded a Statement of Facts in Exemption Application, concerning the parcels here in issue and the buildings thereon, for the 1991 assessment year to the Illinois Department of Revenue (Department's Exhibit 2). On October 22, 1992, the Department of Revenue notified Applicant that it was denying the exemption of the parcels here in issue and the buildings thereon, for the 1991 assessment year (Department's Exhibit 3). On November 4, 1992, Applicant's then attorney requested a formal hearing in this matter (Department's Exhibit 4). The hearing held on May 24, 1994, was held pursuant to that request.

Mr. Jeffrey Jahns, as well as being an attorney during 1991, was the secretary of Applicant, and at the time of the hearing, was the president of Applicant. At the hearing in this matter, he was sworn and testified, with regard to the activities of Applicant. In addition, he acted as the attorney for the Applicant, in that he conducted the direct examination of Mr. Longo, the witness for Applicant's lessee, in this matter, the Soccer Federation.

Applicant was incorporated pursuant to the "General Not For Profit

Corporation Act" of Illinois, on April 19, 1966, as The Foundation for the Chicago School of Architecture, Inc., for purposes which included the following:

"The corporation is organized and shall be operated exclusively for charitable, literary and educational purposes."

On August 3, 1966, the Articles of Incorporation of that corporation were amended to include the following:

"This corporation is organized and shall be operated exclusively for public charitable, public educational and public scientific purposes, including the establishment of a public museum to advance public interest and education in the architectural heritage of the 'Chicago School' of architecture."

By an amendment to the Articles of Incorporation of Applicant, dated December 6, 1977, the name of the organization was changed to the Chicago Architecture Foundation.

Applicant, during 1991, operated the Glessner House Museum and the Widow Clarke House Museum, which are the only two accredited house museums in Illinois. Applicant owned the Glessner House, and the Widow Clarke House was owned by the City of Chicago, and operated by Applicant. In addition, Applicant offered free lectures to the public at its headquarters. Applicant also offered free tours for public school children. In addition, it operated numerous architectural tours, including walking tours, elevated train tours, Chicago river boat tours, and bus tours. Applicant charged for many of those tours during 1991. No evidence was offered that the tour fees, or charges, were ever waived, or reduced, in cases of need.

During 1991, Applicant's membership dues were either \$25.00 per year, or \$30.00 per year. Mr. Jahns did not recall when the dues were raised. Again, no evidence was offered that membership dues were ever waived, or reduced, in cases of need, during 1991. Prior to 1991, the City of Chicago had created the Prairie Avenue Historic District. This District is

registered in the National Register of Historic Places. The Glessner House, as well as the parcels here in issue, are located within the Prairie Avenue Historic District.

R. R. Donnelly & Sons Company, on November 13, 1991, gave the parcels here in issue and the Kimball House and the Coleman-Ames House located thereon, to Applicant. These parcels are located directly across Prairie Avenue from the Glessner House, in the Prairie Avenue Historic District.

On November 19, 1991, Applicant leased the parcels here in issue and the buildings located thereon, to the Soccer Federation for the period November 19, 1991, through October 31, 1994. Pursuant to that lease, the Soccer Federation had an option to renew the lease for an additional two years, to October 31, 1996. The lease provided that during its initial term the Soccer Federation would restore the exterior and first floor of both the Kimball House, and Coleman-Ames House, to their original condition. The lease also provided that the restoration of the first floor of the Kimball House be completed by December 31, 1993. In addition, Applicant, pursuant to the lease, reserved the right to, no more often than 12 times per year, conduct tours of these buildings. Section 18.2 of the lease makes reference to an option to purchase. However, Applicant did not offer a copy of that option to purchase, into evidence. Note 11 to Applicant's 1991 audited financial statements also makes reference to this option to purchase, and states that the price will be mutually agreed upon by the parties at the time the option is exercised.

The Soccer Federation was organized in 1913, as the controlling organization for soccer in the United States. The Amateur Sports Act passed by Congress in 1977, gave the U.S. Olympic Committee the right to name national governing bodies for each sport. The U.S. Olympic Committee named the Soccer Federation as the national governing body for soccer. The Soccer Federation is divided into three divisions: the Youth Division,

which includes youths up to age 19, the Senior Division, which includes ages 20 and over, and the Professional Division.

The Youth Division has over 2,000,000 youths registered with it. It provides national competition, as low as age 12 up to age 19. This provides the youths with Olympic development opportunities and national team participation. The amateur division is similar, but the number of participants is smaller, about 350,000. The amateur division under 23 program is the Olympic training program. The Soccer Federation sanctions and provides support for the youth and amateur teams, including the national teams, which play abroad. The Soccer Federation also trains and licenses referees and coaches. The professional division registers and regulates the U. S. professional soccer leagues and teams. While the organization which put on the World Cup in the United States in the summer of 1994, is a separate organization located in Los Angeles, California, Applicant did sanction and assist in putting together the United States team, which played in the World Cup. No evidence was offered that Applicant ever waived, or reduced, fees of any kind, in cases of need.

As soon as the lease in this matter was signed, the Soccer Federation began moving personnel from its former headquarters in Colorado Springs, to Chicago. Remodeling of the Coleman-Ames House began immediately, and the first personnel moved in during December 1991. All personnel had moved in by March 1, 1992. Remodeling of the Kimball House began about the same time, but because that house required more work, was not completed until December 1993.

Mr. Jahns testified that he believed that the Applicant had been granted a real estate exemption for the Glessner House property. Applicant was given until May 31, 1994, to provide a copy of that exemption certificate. Applicant later requested that an extension to June 10, 1994, be granted to provide such a certificate, if it could be found. This was

done, but no document evidencing that the Department of Revenue had granted an exemption for the Glessner House property was ever received.

1. Based on the foregoing, I find that in view of the fact that Applicant failed to establish that it waived, or reduced, tour charges or membership dues, in cases of need, that it failed to establish that it was a charitable organization during the 1991 assessment year.

2. I further find that Applicant acquired the parcels here in issue by a deed dated November 13, 1991, and leased said parcels and the buildings thereon, to the Soccer Federation by a lease dated November 19, 1991.

3. Said lease, I find, was a lease for profit.

4. Finally, I find that the Soccer Federation failed to establish that it was a charitable or exempt organization during the 1991 assessment year.

CONCLUSIONS OF LAW Article IX, Section 6, of the Illinois Constitution of 1970, provides in part as follows:

"The General Assembly by law may exempt from taxation only the property of the State, units of local government and school districts and property used exclusively for agricultural and horticultural societies, and for school, religious, cemetery and charitable purposes."

35 ILCS 205/19.7 (1992 State Bar Edition), exempts certain property from taxation in part as follows:

"All property of institutions of public charity, all property of beneficent and charitable organizations, whether incorporated in this or any other state of the United States,...all property of...not-for-profit organizations providing services or facilities related to the goals of educational, social and physical development,...when such property is actually and exclusively used for such charitable or beneficent purposes, and not leased or otherwise used with a view to profit;....All...not-for-profit organizations providing services or facilities related to the goals of educational, social and physical development shall qualify for the exemption stated herein if upon making application for such exemption the applicant provides affirmative evidence that such...not-for-profit organization is an exempt organization pursuant to paragraph (3) of Section 501(c) of the Internal Revenue Code, or its successor, and the bylaws of the...not-for-profit organization, provide for a waiver or

reduction of any entrance fee, assignment of assets or fee for services, based upon the individual's ability to pay."

In the case of *Methodist Old Peoples Home v. Korzen*, 39 Ill.2d 149 (1968), the Illinois Supreme Court set forth six guidelines to be used in determining whether or not an organization is charitable. Those six guidelines read as follows: (1) the benefits derived are for an indefinite number of persons; (2) the organization has no capital, capital stock, or shareholders, and does not profit from the enterprise; (3) funds are derived mainly from private and public charity, and are held in trust for the objects and purposes expressed in the charter; (4) charity is dispensed to all who need and apply for it; (5) no obstacles are placed in the way of those seeking the benefits; and (6) the primary use of the property is for charitable purposes. In view of the fact that Applicant failed to establish that it waived, or reduced, membership dues, or fees or charges, for tours, I conclude that the benefits derived were not for an indefinite number of persons, that charity was not dispensed to all who needed or applied for it, and that the dues and fees were obstacles placed in the way of those seeking the benefits. Consequently, I conclude that Applicant failed to establish that it qualified as a charitable organization. While Mr. Jahns alleged that he believed that the Glessner House property had been determined to be exempt, he failed to provide evidence to support that allegation.

In addition, it should also be noted that the Illinois Courts have consistently held that the use of property to produce income is not an exempt use, even though the net income is used for exempt purposes. *People ex rel. Baldwin v. Jessamine Withers Home*, 312 Ill. 136 (1924). See also *The Salvation Army v. Department of Revenue*, 170 Ill.App.3d 336 (1988), leave to appeal denied. Consequently, since these parcels were leased to the Soccer Federation, they were not used for charitable purposes.

In its brief, Applicant also contends that the Soccer Federation

qualifies as an exempt organization. In support of this contention, the case of Decatur Sports Foundation v. Department of Revenue, 177 Ill.App.3d 696, (1988) was cited. In that case, the Court had determined that a foundation which owned softball fields, qualified as a charitable organization because among other reasons, it lessened the burdens of government. It was then alleged that since the Soccer Federation had been named by the U. S. Olympic Committee as the national governing body for soccer, pursuant to the Amateur Sports Act passed by Congress in 1977, that it was somehow lessening the burdens of government. However, Mr. Longo testified that the Soccer Federation had been, in fact, controlling soccer in the United States since 1913. Consequently, I conclude that the Soccer Federation's appointment by the U. S. Olympic Committee to do what it had been doing for 60 some years, did not change its character, and does not support the contention that it was in any way lessening the burdens of government. It should also be pointed out that assisting the U. S. Olympic Committee in the regulation of amateur and professional sports, does not appear to be a governmental function, as contemplated by the Courts. In addition, in the Decatur Sports Foundation case, the Court applied the foregoing six guidelines set forth in the Methodist Old Peoples Home case, and made a specific finding that the Decatur Sports Foundation waived, or reduced, fees in cases of need. The Soccer Federation failed to establish that it waived, or reduced, fees in cases of need.

The brief in this matter also relied on the following language of Section 205/19.7.

"All...not-for-profit organizations providing services or facilities related to the goals of educational, social and physical development shall qualify for the exemption stated herein if upon making application for such exemption the applicant provides affirmative evidence that such...not-for-profit organization is an exempt organization pursuant to paragraph (3) of Section 501(c) of the Internal Revenue Code, or its successor, and the bylaws of the...not-for-profit organization, provide for a waiver or reduction of any entrance



fee, assignment of assets or fee for services, based upon the individual's ability to pay."

First of all, the Soccer Federation failed to establish that it waived, or reduced, fees in cases of need, and further failed to point out any provision in its bylaws providing for a waiver, or reduction, of fees, based upon the individual's ability to pay. It should also be noted that the real estate tax exemption provision, concerning veterans' organizations requiring that the property be used for charitable, patriotic, and civic purposes, was held by the Illinois Supreme Court in *North Shore Post No. 21 v. Korzen*, 38 Ill.2d 231 (1967), to require that for property to qualify for exemption, it must be used for all three enumerated purposes. See also *Coalition for Political Honesty v. State Board of Elections*, 65 Ill.2d 453 (1976), in which the Supreme Court determined that the language of Article XIX, Section 3, of the Illinois Constitution of 1970, which provides that Article IV of said Constitution may be amended by constitutional initiative, and which requires that "[a]mendments shall be limited to structural and procedural subjects in Article IV", required that amendments by initiative to the legislative article affect both the structure and procedure of the legislature. Consequently, I conclude that the provision of 35 ILCS 205/19.7, cited hereinbefore, which exempts organizations providing services related to the goals of educational, social, and physical development, requires that said services relate to all three goals, for the organization to qualify for exemption. The Soccer Federation did not contend, or offer, any evidence that its activities facilitated the goal of social development. Consequently, I conclude that it did not qualify for exemption, pursuant to the foregoing provision of 205/19.7.

I therefore recommend that Cook County parcels numbered 17-22-309-001 and 17-22-309-002. remain on the tax rolls for the 1991 assessment year.

Respectfully Submitted,

George H. Nafziger  
Administrative Law Judge

April , 1995